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Kenneth Rust
Director, Federal Regulatory Affairs

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

May 6, 1999

Ex Parte

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

Re: CC Docket Nos. 96-45 & 97-160

Dear Ms. Salas:

Yesterday, Susanne Guyer and I, representing Bell Atlantic, met with Linda Kinney, Legal Advisor to Commissioner Ness, regarding the items captioned above. Frank Gumper, also representing Bell Atlantic, participated by telephone. The attached material summarizes the points raised by the Bell Atlantic representatives.

Copies of the this letter and the attachment are also being sent today to Tom Power, Legal Advisor to Chairman Kennard, Kyle Dixon, Legal Advisor to Commissioner Powell, Kevin Martin, Legal Advisor for Commissioner Furchgott-Roth, Sara Whitesell, Legal Advisor to Commissioner Tristani, Larry Strickling, Chief, Common Carrier Bureau, and Lisa Zaina, Associate Chief, Common Carrier Bureau.

Any questions on this filing should be directed to me at the address shown above.

Sincerely,

Ken. Rust

Attachment

cc: L. Kinney

Section 254 of the 1996 Telecommunications Act provides explicit statutory authority for federal universal service policies to supplement long-standing state authority in the area. In particular, subsection (b), which specifies the governing "principles" for a federal support mechanism, expressly provides that "[t]here should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service." Based on this charge, two fundamental concepts must underlie any federal universal service plan. First, the federal fund does not stand by itself, but is a partner with the primary role played by state policies to maintain universal service. Second, because phone service is already universally available, the requirement for a "sufficient" fund should not unnecessarily disrupt the market and burden ratepayers.

1. The federal high cost fund has a focused role in the federal-state partnership envisioned in the Act.

    - The states must address problems that can be solved within a single state, and the federal role should be limited to those concerns that require a distribution of funds from one state to another. This complimentary approach limits the specter of moderate-income customers paying higher rates to maintain relatively lower rates for wealthy customers in another state.

    - Any federal fund should respect the right of states to set intrastate rates and should recognize that states are in the best position to determine their own intrastate universal service policies.

        - As a result, the assessment for the federal universal service fund should be based only on interstate revenues.

        - Were the Commission to violate this principle, consumers in some states – where the same revenues would be taxed to support both a state and federal universal service fund – would face a disproportionate burden that would not be equitable. This would deny states the flexibility and means to complement the federal fund.

2. The federal high cost fund should be in harmony with the Act's dual goals of developing a competitive telecommunications marketplace while providing "sufficient" universal service support. A federal fund that goes beyond this floor displaces market forces with regulatory assessments.

    - The federal fund should be sufficient and "the minimum necessary" to provide support to only those states where the market dynamics are unable to provide affordable telephone service.

    - Universal service policy should only disrupt market forces to the extent necessary to preserve universal service.

Relying on those principles, it is clear that no significant shifts are necessary or appropriate today.

- Larger non-rural companies are already experiencing the rapid growth of competition while maintaining universal service. Competition is developing more slowly in rural areas of the country.

- Penetration rates remain high and rates are affordable.

- The cost model cannot project specific costs, and at best, could be used for study area to study area relative cost comparisons. Regardless, even for that limited purpose, the model is not ready for "prime-time" actual use. Data inputs are still being debated and the constant changes to the model have made any serious testing of the validity of its results impossible.

- The Commission should be wary of an interim "fix" that inadvertently makes major changes to the fund going forward. The Commission has already put on hold adjustments to compensation to rural carriers. The remaining support for non-rural is a minor and diminishing portion of the fund.